

**DEBRA SPURGEON**  
Claimant

**PARKWAY CARE HOME**  
Respondent

**INSURANCE COMPANY STATE  
OF PENNSYLVANIA**  
Insurance Carrier

)
)
)
)
)
)
)
)
)
)

The Judge also found that just cause existed to excuse claimant's failure to provide respondent with notice of the accidental injury within ten days of its occurrence. Claimant

testified that within ten days of the incident she advised both her trainer and supervisor that she injured herself at work. That testimony, however, is disputed.

The Appeals Board finds that claimant did provide respondent with notice of her accidental injury within ten days of its occurrence. On November 4, 1997, claimant saw her chiropractor, Dr. James J. Smith. At her initial visit, claimant wrote on the new patient history form that she had sustained an injury at work. Claimant's supervisor testified that on November 4, 1997, she received a call from someone representing himself as claimant's doctor and who explained that claimant had sustained a neck and shoulder injury. When considering that claimant advised Dr. Smith the day after the accident that she had injured herself at work, the Appeals Board finds that it is more probably true than not that claimant likewise notified respondent of the accidental injury as she alleged.

Although the Appeals Board finds timely notice of accidental injury for reasons somewhat different than the Administrative Law Judge, the final result is the same and the Preliminary Decision should be affirmed.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Preliminary Decision dated May 13, 1998, entered by Administrative Law Judge Robert H. Foerschler should be, and hereby is, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of June 1998.

---

BOARD MEMBER

c: Luis Mata, Kansas City, KS  
Stephen P. Doherty, Kansas City, KS  
Robert H. Foerschler, Administrative Law Judge  
Philip S. Harness, Director